

Online Scenario Test Evaluation and Feedback Report

00133 Deputy District Judge (Magistrates' Court)

May 2023

Purpose

The purpose of this report is to provide an evaluation of the Deputy District Judge (Magistrates' Court) online scenario test as well as general feedback on candidate performance in the test.

The report describes how the Judicial Appointments Commission (JAC) developed the test and marking schedule, how the test was structured, and how the number of candidates shortlisted for progression was attained. Additionally, it provides information on the overall performance of candidates in the test, identifying areas of good and poor performance and sharing more detailed comments in relation to each of the **four** questions in the test.

Additional Selection Criteria

Although the scenario test for this exercise was designed to test a candidate's transferrable skills and their potential to work effectively as a Deputy District Judge (Magistrates' Court), the additional selection criteria (ASC) for this selection exercise requires that candidates must be able to demonstrate substantial knowledge and experience of criminal law and procedure. It is expected that candidates' evidence of knowledge and experience of criminal law and procedure will be within the last five years.

Competency Framework

The test was designed to assess the following competencies:

- Exercising Judgement
- Possessing and Building Knowledge
- Assimilating and Clarifying Information
- Working and Communicating with Others
- Managing Work Efficiently

The competencies were developed so that candidates could demonstrate the proficiency and capability transferable to the role from other contexts. The specific bullet points under each competency heading were designed to reflect the skills and abilities that an effective Deputy District Judge (Magistrates' Court) is expected to have. This enabled us to assess candidates in a fair and consistent way.

Development of the test

The test and marking schedules were devised by a District Judge (Magistrates' Court).

In common with all the selection tools developed for this exercise, the scenarios and situational questions were designed to assess relevant transferable skills and to minimise the extent to which candidates might be advantaged or disadvantaged by their professional background.

The materials developed for this exercise were reviewed internally by Operations, Policy, and Diversity and Engagement teams to quality and equality assure the material to ensure it was an effective tool to assess candidates. The teams also ensured that the materials did not unfairly advantage or disadvantage any potential candidates taking the test on the basis of their diversity characteristics or professional background.

Following this internal quality assurance, the material was then reviewed by the JAC Advisory Group. The Advisory Group is composed of members of the judiciary and representatives of the legal professions and chaired by a lay JAC Commissioner. It offers its advice and guidance on the development of selection material and also looks at material in terms of quality and whether it would have any negative impacts on diverse groups.

The effectiveness of the test was assessed by means of a dry run with a range of volunteers from relevant candidate groups. This provided an opportunity to trial the test material, and the structure and timings of the test, and then make any necessary amendments.

Structure of the test

The test was hosted on the JAC Digital Platform. The test was 75 minutes long. Candidates were presented with a scenario and four questions.

The test was designed to test candidates' ability to apply complex (but routine) law to a fictional scenario. The scenario involved either way offences for dangerous driving and possession of a bladed article. The test required candidates to read the scenario closely, noting dates of key events, and applying the law correctly.

The situations used in the questions were based on potential real-life situations that may be encountered by a Deputy District Judge (Magistrates' Court).

Candidates were required to provide narrative responses to each of the four questions. Each question had a word limit and a maximum number of marks available. The word limit and marks for each question were as follows:

- Question 1: 29 marks, a maximum of 500 words
- Question 2: 18 marks, a maximum of 500 words
- Question 3: 33 marks, a maximum of 500 words
- Question 4: 9 marks, a maximum of 500 words

Marking schedule

A marking schedule was provided to the panels. A maximum of 89 marks were available.

Marking of the test

The candidates' test submissions were anonymised and marked by a panel of judicial members. JAC staff provided a full briefing to the markers at the outset of marking the papers.

310 candidates sat the test. A **10%** sample of the test papers were selected for moderation. Those selected included the test papers identified for moderation by markers; samples of the high, low and mid scoring test papers; all test papers close to the prospective cut off point for invitation to selection days; and a further random sample.

Moderation took the form of markers cross checking each other's work. The moderation process concluded that the panels had been consistent and fair.

In line with JAC Policy, a Senior Selection Exercise Manager and the JAC Commissioner assigned to the selection exercise undertook separate quality assurance checks. Their independent conclusion was that marking had been robust and consistent.

Distribution of scores

314 candidates were invited to take the test

4 candidates withdrew from the process or didn't take the test

310 candidates took the test

The scoring process was as follows: all candidates were scored on their answers to the test based on the marking schedule. All candidates were then ranked in order of merit from first to last based on their percentage score.

This provided a merit list determining how many candidates would be invited to the next stage of the exercise. The highest **77** scoring candidates from the scenario test were shortlisted through to selection days subject to eligibility checks.

We did not have a pre-determined pass mark for the test; however, candidates must score a minimum of 30%. The line of shortlisting is determined by the relationship between the relative performance of candidates against each other in any given test, and how many slots there are for the next stage of the selection exercise. For this exercise the score at which the line of shortlisting fell was **39%** and above.

The highest and lowest marks awarded are shown in the table below:

Distribution of marks	Question 1	Question 2	Question 3	Question 4	Total
Highest score	21/29 (1 candidate)	15/18 (1 candidate)	30/33 (1 candidate)	9/9 (5 candidates)	63/89 (1 candidate)
Lowest score	0/29 (3 candidates)	0/18 (7 candidates)	0/33 (6 candidates)	0/9 (29 candidates)	0/89 (3 candidates)

Approach to shortlisting

When the JAC receives notification from HMCTS confirming the final number of vacancies for the requested post, calculations are made to establish how many candidates will be taken to selection day (usually at a ratio of two or three candidates interviewed for each vacancy, however for this exercise we chose a ratio of five candidates for each vacancy). This allows us to estimate the number of candidates we need to progress after the shortlisting stages until we reach the selection day ratio.

For this exercise we received a vacancy request to fill **15** posts. We therefore planned the selection exercise based on inviting around **75** candidates to selection day. This approach was adopted to prevent a significant drop in the number of candidates proceeding to the available selection day slots from those that applied for the exercise.

All candidates who applied for the exercise were invited to sit the online qualifying test, which involved both a Situational Judgement and Critical Analysis test. 314 candidates were invited to take the online scenario test. 310 candidates completed the test.

To identify the top 75 candidates to proceed to selection day (subject to successful eligibility checks), the percentage score for each candidate was used to rank all candidates into a merit list, with the highest percentage score as the most meritorious and the lowest percentage score as the least meritorious.

Equal Merit Provision

Where there are candidates with the same score at the cut off line, an Equal Merit Provision (EMP) may be applied in line with the JAC's published policy, which is available [here](#). If the equal merit approach is applied, this will be after the consideration of a sub-committee of Commissioners; consisting of a legal Commissioner, a lay Commissioner and the Assigned Commissioner for the exercise. The sub-committee will consider and will need to be satisfied that:

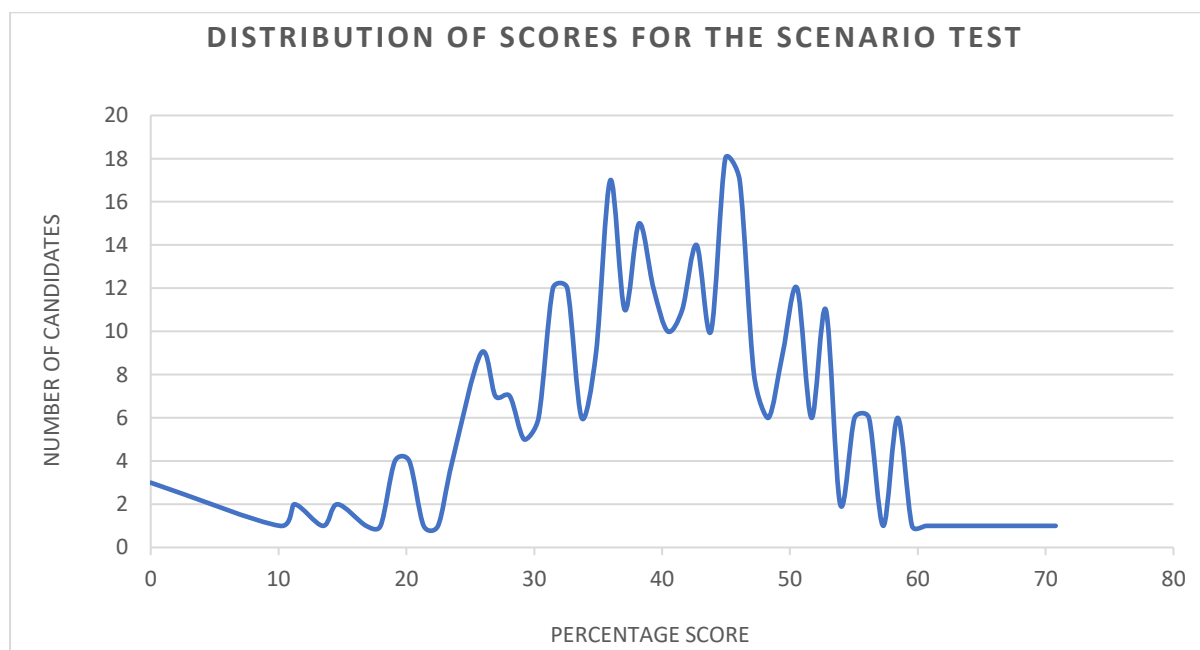
- the candidates about whom a decision is being taken are of equal merit
- the particular protected characteristic is underrepresented either in the judiciary as a whole or at the relevant level of judiciary
- reliance on EMP in the shortlisting process being conducted is a proportionate means of achieving the aim of increasing judicial diversity

An Equal Merit Provision was applied at this stage of the selection process.

After applying the above process, eight candidates were invited to progress to the next stage of the selection exercise.

We do not have a pre-determined pass mark for the test; the line of shortlisting is determined by the relationship between the relative performance of candidates against each other in any given test, and how many slots there are for the next stage of the selection exercise.

Distribution of scores



The range of candidate scores for this test were as follows: the lowest candidate score was **0%**, and the highest candidate score was **71%**. The average candidate score was **39%**.

Feedback from the marking panels

In advance of marking the test the marking panels were instructed to consider any common themes in the candidates' answers that could be included in the feedback report, which can be seen below.

Question 1

Candidates who scored well, included most or all the following in their answers:

- Identified that indication of pleas should be taken on the offensive weapon and dangerous driving charges, and they were either way matters.
- Identified that either way offences should be tried summarily, unless the outcome would clearly be a sentence in excess of court powers for the offences concerned after taking into account personal mitigation, and reasons why the case should be tried in Crown Court.
- Identified that in cases with no factual or legal complications, the court should bear in mind its power to commit for sentence after a trial.
- Identified that the court should take into account the defendant's previous convictions in considering allocation.
- Identified that the defendant was a youth at the time of the offence and is properly before the adult court as his first appearance before the court is after he reached the age of 18.
- Clearly stated the relevant sentencing guidelines for the case of the offensive weapon, with the starting point and minimum sentence it attracts.
- That the court has power to impose consecutive sentences on either way offences up to 12 months as there are two either way offences before the court.
- Identified that if the case is sent for trial under s.51 CDA 1998, the no licence/no insurance matters are related offences and satisfy the criteria in s.51 (11) CDA 1998.

Candidates who performed less effectively:

- Did not identify the either way offences.
- Did not note that Crown Court trials are very much delayed compared to Magistrates' Court trials.
- Did not consider relevant sentencing guidelines.

- Made no reference to the allocation guidelines.
- Made no reference to defendant's previous convictions.
- Incorrectly treated the defendant as a youth.
- Did not consider the power of the court to impose consecutive sentences on either way offences.
- Did not identify that the defendant should be admitted to bail or remanded in custody.

Question 2

Candidates who scored well, included most or all the following in their answers:

- That no failing to surrender charge should be put.
- Mr Khan was required to give evidence in person.
- PC Adem was required to give evidence in person.
- PC Chan was not required as there is no dispute about her evidence, as the driving is admitted by the defendant.
- Reference particularly to rule 3.2 of the Criminal Procedure Rule (Crim PR).
- The defendant was disqualified from driving until he passed an extended re-test. The correct charge should therefore have been driving whilst disqualified and not driving otherwise than in accordance with a licence.

Candidates who performed less effectively:

- Did not identify that no failing to surrender charge should be put.
- Did not reference the relevant Criminal Procedure Rule.
- Did not identify that PC Chan was not required as there is no dispute about her evidence, as the driving is admitted by the defendant.
- Did not note the correct charge which should have been driving whilst disqualified and not driving otherwise than in accordance with a licence.

Question 3

Candidates who scored well, included most or all the following in their answers:

- Stated that the maximum sentence available is 12 months.

- Identified that a minimum sentence requirement of 6 months applies as defendant had a relevant previous conviction and the criteria in s.315 of the Sentencing Act (SA) 2020 are met.
- That the pre-sentence report (PSR) is wrong and that the minimum is 4 months.
- Took into account the age of the defendant when convicted so the minimum term of 6 months applies.
- Clearly stated that sentencing guideline category is A2, thus the starting point is 6 months' custody with a range between 3 months' and 1 year's custody.
- Identified that an uplift to the starting point of 6 months is justified on account of the previous conviction.
- The ADHD diagnosis could be considered relevant as mitigation.
- Identified that impairments or disorders experienced by the offender are factors which sentencers are required to consider at Step 1 (where the impairment or disorder is linked to the offence) or at Step 2 (where it is not linked to the offence) when considering the stepped approach set out in offence-specific guidelines.
- That the court does have power to suspend any term of imprisonment.
- Identified that an order for deprivation/forfeiture of the knife should be made.
- That a surcharge must be imposed.
- Identified that, as the offence pre-dates 16 June 2022, the old rates apply.
- Specified the days, if immediate custody is imposed, and also gave correct number of days (28 days divided by 2=14 days to count).

Candidates who performed less effectively:

- Did not correctly identify that the maximum sentence available is 12 months.
- Did not impose at least the minimum sentence requirement (6 months).
- Did not mention that an uplift to the starting point of 6 months is justified on account of the previous conviction.
- Did not identify that the ADHD diagnosis could be considered relevant as mitigation.
- Did not consider the factors detailed in the imposition guideline when suspending a sentence.
- Did not identify factors indicating that it may or may not be appropriate to suspend a custodial sentence.

- Did not identify the need to specify the days, if immediate custody is imposed.
- Did not specify the correct number of days (28 days divided by 2=14 days to count).
- Did not impose a surcharge.

Question 4

Candidates who scored well, included most or all the following in their answers:

- Identified discretionary period, 35A and 35B periods and why, and correct total period.
- Clearly identified that the final result should be discretionary disqualification 15 months (12 months with a 3 month uplift under s.35B) and a s.35A extension of 3 months total 18 months.
- Identified that no reduction should be made to the period of disqualification on account of the time spent on bail subject to a tagged curfew unless it would lead to a disproportionate result.
- Identified that 14 days is the credit period which would not be a disproportionate result so no reduction should be made.
- Identified that as the defendant is already subject to an extended retest imposed at the Crown Court, the court should not impose a second requirement to complete an extended retest.

Candidates who performed less effectively

- Did not identify discretionary period.
- Identified s.35A RTOA 1988 but did not mention s.35B RTOA.
- Did not identify the final result of the discretionary disqualification, uplift and extension period.

Feedback from candidates

After the online scenario test, candidates were invited to complete an anonymous candidate survey.

62 candidates responded to the survey. Based on the results of the survey:

In terms of the 75-minute time limit for the test:

- around 79% of candidates thought the time allocated was too short
- around 8% of candidates thought the time allocated was just right.

In terms of the difficulty of the test:

- around 16% of candidates thought the test was easy to complete
- around 59% of candidates thought the test was difficult to complete
- around 25% of candidates neither agreed nor disagreed with the above.

When answering Question 1:

- around 16% of candidates thought question 1 was not challenging enough
- around 56% of candidates thought question 1 was challenging
- around 5% of candidates thought question 1 was very challenging
- around 23% neither agreed nor disagreed.

When answering Question 2:

- around 16% of candidates thought question 2 was not challenging enough
- around 56% of candidates thought question 2 was challenging
- around 2% of candidates thought question 2 was very challenging
- around 26% neither agreed nor disagreed.

When answering Question 3:

- around 8% of candidates thought question 3 was not challenging enough
- around 60% of candidates thought question 3 was challenging
- around 13% of candidates thought question 3 was very challenging
- around 19% neither agreed nor disagreed.

When answering Question 4:

- around 26% of candidates thought question 4 was not challenging enough
- around 32% of candidates thought question 4 was challenging
- around 5% of candidates thought question 4 was very challenging
- around 37% neither agreed nor disagreed.

When completing the test:

- around 48% of candidates were confident in the test as a JAC selection tool
 - around 28% of candidates were not confident in the test as a JAC selection tool
 - around 24% of candidates neither agreed nor disagreed with the above.
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- around 77% of candidates agreed the test was accessible in terms of format, language and topics covered
 - around 13% of candidates disagreed that the test was accessible in terms of format, language and topics covered
 - around 10% of candidates neither agreed nor disagreed with the above.